

(1997) 12 SC CK 0148

In the Supreme Court Of India

Case No : Civil Appeal Nos. 2150-51 of 1984 18 December 1997 A. Y. 1968-69 and 1969-70

Commissioner of Income Tax

APPELLANT

Vs

K. Satyendrakumar

RESPONDENT

Date of Decision : 18-12-1997

Acts Referred:

Citation : AIR 1999 SC 1605 : (1998) 232 ITR 360

Hon'ble Judges : S. S. M. Quadri, J; S. C. Sen, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Suhas C. Sen, J.—The dispute in this case was whether the assessee was liable to be assessed in the status of Hindu undivided family. The properties held by the assessee came from a lady relative. The assessment years involved are 1968-69 and 1969-70. The assessee is the son of one Appa Rao and Shyamalambal is the mother of the said Appa Rao and the paternal grandmother of the assessee. The said Shyamalambal had certain funds of her own and she gave these funds to Appa Rao and it was alleged that her intention in doing so was that the funds should be used for the benefit of the entire family. With those funds Appa Rao did business and entered into other various transactions. In course of time, Appa Rao acquired properties in his name utilising the money derived from the business and from the properties acquired therefrom. As disputes arose regarding the said properties and the businesses, the disputes were referred to the arbitration of two members of the Madras Bar named as joint arbitrators. Under the arbitration award, the properties were divided by metes and bounds and allotted to the members of the family. The assessee got 60 acres of land in Kollur Village, Ponneri Taluk, and a plot of vacant land in the city of Madras at Vepery.

2. During the assessment proceedings for the assessment years 1968-69 and 1969-70, a question arose as to whether the assessee was to be assessed in the

status of an individual or as a karta of a Hindu undivided family in respect of the income from the properties and his businesses. The income tax Officer was of the view that although the assessee got properties on partition effected by the arbitrators under the aforesaid award, these properties could not be held to be joint family property.

3. The Appellate Assistant Commissioner affirmed the order of the income tax Officer. On further appeal by the assessee, the income tax Appellate Tribunal took the view that a property which belonged to a female member cannot be considered as capable of providing any nucleus for properties to become properties of a Hindu undivided family. The Tribunal held that the acquisition by way of gift could not be treated as joint family property.

4. The following question of law was referred by the Tribunal to the High Court (see *Satyendra Kumar Vs. Commissioner of Income Tax, Madras*,

Whether, on the facts and in the circumstances of the case, the status of the assessee was rightly determined as individual for the assessment years 1968-69 and 1969-70?

5. The High Court relied upon the following proposition (page 843) :

Property may be joint property without having been ancestral. Where the members of a joint family acquire property by or with the assistance of joint funds or by their joint labour or in their joint business or by a gift or a grant made to them as a joint family, such property is the coparcenary property of the persons who have acquired it, whether it is an increment to ancestral property, or whether it has arisen without any nucleus of ancestral property.

6. The High Court took into account the nature of the gift and referred to the arbitration decision. The High Court noted that the decree was ultimately passed in terms of the above.

7. The High Court ultimately observed (page 843) :

There is clear evidence that Srimathi K. Shyamalambal, wife of K. Satyanarayana, had funds of her own and with the clear intention of benefiting the family as a whole she provided funds to K. Appa Rao and with the assistance of the money so advanced and keeping the said money as a nucleus, K. Appa Rao did business and also entered into various transactions as a result of which various properties came to be acquired by him either in his name or in the names of others.... At no time K. Appa Rao intended to hold the property, as his own self-acquired property but acting always under the guidance and help of the senior-most member of the family, K. Satyanarayana, he did various transactions which were clearly intended for the benefit of the entire family.'... It is enough that the coparcener concerned disclaims his separate dominion over his self-acquired property. No doubt, the present case is not one where what was initially the separate property of a member, subsequently, got clothed with the character of joint family property either by a declaration or by appropriate conduct on the

member's part. For, here is a case where ab initio, at the very moment the property was acquired, it was so acquired as joint family property. Appa Rao was merely the hand which received the funds, but Shyamalambal who provided the funds made it perfectly clear that those funds were to be utilised only for the benefit of the family.

8. The dispute in this case was whether the assessee was liable to be assessed to tax in the status of Hindu undivided family. The properties held by the assessee came from a lady relative. The Tribunal was of the view that since the source of the property was a gift it could not be treated as a joint family property. The High Court pointed out that the donor, Smt. Shyamalambal, wife of K. Satyanarayana, had funds of her own. With a clear intention of benefiting the family as a whole she provided funds to K. Appa Rao. The money in the hands of K. Appa Rao has to be treated as joint family property because Smt. Shyamalambal clearly indicated at the time of making of the gift that the funds were to be utilised only for the benefit of the family. K. Appa Rao, M. Satyendra Kumar and other brothers jointly held the property. The Tribunal (High Court ?) from all these facts came to the conclusion that the money received by the assessee was part of the joint family property. The assessee has to be taxed in the status of an individual (HUF ?).

9. We do not find any reason to interfere with the findings of the High Court. The appeals are dismissed and no order as to costs.